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10/622,372	07/18/2003	Timothy Kirby	ITJ-001.01	4362

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EXAMINER	
TERMANINI, SAMIR	
ART UNIT	**PAPER NUMBER**
2178	

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/622,372	KIRBY ET AL.	
	Examiner	Art Unit	
	Samir Termanini	2178	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 July 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-31* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/17/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the following communications: Application filed on 7/18/2003; and IDS filed on 6/17/2004.

2. Claims 1-31 are pending. Claims 1, 15, 20, 24, and 31 are in independent form.

3. Receipt is acknowledged of papers submitted on 10/31/2003 under 35 U.S.C. § 119 (a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 U.S.C. § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1-4, 8-25, and 27-31** are rejected under 35 U.S.C. 102(e) as being anticipated by *Avnet et al.* (US 2002/0094787 A1).

As to independent **claim 1**, *Avnet et al.* teach an apparatus for interactive media display ("the viewer or user interact with the item displayed" para. [0005]) comprising: a central controller ("control station 14" para. [0014]) to provide content items for display on a screen ("electronic content" para. [0008]); a player controller ("transceiver mounted on or embedded or near in the display" para. [0006]) for receiving the content items from the central controller through a network ("over an electronic communications network" para. [0008]); and a screen ("the display" para. [0006]) for displaying content specified by the

player controller, wherein at least one of the central controller and the player controller is responsive to a user communication device operable by a user to select the content items for display ("the user to interact with the display and select the additional data that the user wishes to receive." para. [0005]).

As to dependent **claim 2**, *Avnet et al.* further teach that the screen is a liquid crystal display, (element 20, Fig. 1)

As to dependent **claim 3**, *Avnet et al.* further teach that the user device is a portable communication device ("personal handheld electronic device such as a PDA [or] a cell phone" para. [0006]).

As to independent **claim 4**, *Avnet et al.* further teach the user device to be a remote control having an infrared (IR) transmitter ("infra-red {IR} modality" para. [0024]).

As to dependent **claim 8**, *Avnet et al. further* teach that the central controller executes a program whose output displays at the screen ("The unit is programmed to broadcast a small amount of data, usually a URL or similar token, related to the display in which it is embedded" para. [0008]).

As to dependent **claim 9**, *Avnet et al.* further teach the central controller displays predetermined material when a user is not selecting content items for display on the screen ("stored messages which it can transmit on a predetermined schedule, a random schedule, a feedback system based upon user 28 interaction, day parting and other similar broadcast and media scheduling schema." para. [0026]).

As to dependent **claim 10**, *Avnet et al.* further teach a second screen for the receipt of content items selected by a user via the user device (e.g. "promotional display" para. [0015]).

As to dependent **claim 11**, *Avnet et al.* further teach the second screen is mounted on a mobile phone device ("display...to a personal handheld electronic device such as a...cell phone..." para. [0006]).

As to dependent **claim 12**, *Avnet et al.* further teach the second screen is mounted on the user device ("a personal handheld electronic device such as a PDA" para. [0006]).

As to dependent **claim 13**, *Avnet et al.* further teach the content items include, *inter alia*, ("advertisements, presentations, solicitations, purchasing suggestions, photos, video clips, audio text files, brochures, maps, coupons, and similar "contextually sensitive" content which is related to the underlying display." para. [0002])(emphasis added).

As to dependent **claim 14**, *Avnet et al.* further teach the content item is a pointer to ("URL or similar token" para. [0008]) to *inter alia*, ("advertisements, presentations, solicitations, purchasing suggestions, photos, video clips, audio text files, brochures, maps, coupons, and similar "contextually sensitive" content which is related to the underlying display." para. [0002])(emphasis added).

As to independent **claim 15**, *Avnet et al.* teach a method for interactive media display comprising: providing a plurality of content items organized as a playlist ("predetermined schedule...day parting[,] and other similar broadcast and media scheduling schema" para. [0026]); causing sequential display of the items on a screen (e.g. "series of posters advertising the films currently being shown " para. [0014]); receiving a command from a remote source ("receives the data" para. [0008]); processing the received command ("interpret the message" para. [0008]); and displaying a new content item in response to the received command ("additional text and information that the user can view immediately" para. [0024]).

As to dependent **claim 16**, *Avnet et al.* further teach providing a content item to a user device in response to the received command ("provide the viewer with further information if the viewer requests further information" para. [0005]).

As to dependent **claim 17**, *Avnet et al.* further teach the provided content item is graphics ("photos" para. [0002]).

As to dependent **claim 18-19**, *Avnet et al.* further teach the content item displayed in response to the received command is provided to a second screen (e.g. "promotional display" para. [0015]; "personal handheld electronic device such as a PDA [or] a cell phone" para. [0006]).

As to independent **claim 20**, *Avnet et al.* teach an apparatus for the generation of an interactive media display comprising ("User[s] interact with and receive information from a [d]isplay [t]o a personal hand held electronic device such as a PDA, [or] cell phone..." see Abstract): a content system for the creation of a playlist of content items ("predetermined schedule...day parting[,] and other similar broadcast and media scheduling schema" para. [0026]); a network interface for providing the playlist to a display system ("over an electronic communications network" para. [0008]); and a display system comprising: a central controller to provide content items for display on a screen; a player controller for receiving the content items from the central controller through a network ("transceiver mounted on or embedded or near in the display" para. [0006]; i.e. "through a hardwired interface, or through a secondary wireless transceiver." para. [0009]); and a screen for displaying content specified by the player controller ("the user to interact with the display and select the additional data that the user wishes to receive." para. [0005]).

As to dependent **claim 21**, *XX* teaches 21. The apparatus of claim 20 wherein the playlist is transmitted to the central controller for storage ("dynamic messaging to be controlled from a centralized location and ties the individual EBB transceivers into a network." para. [0009]).

As to dependent **claim 22**, *Avnet et al.* further teach a second screen for the provision of content items selected by a user (e.g. "promotional display" para. [0015]).

As to dependent **claim 23**, *Avnet et al.* further teach the second screen is mounted on a mobile phone device ("display...to a personal handheld electronic device such as a...cell phone..." para. [0006]).

As to independent **claim 24**, *Avnet et al.* teach an apparatus for interactive media display comprising ("the viewer or user interact[s] with the item displayed" para. [0005]): a player controller in communication with a network the player controller receiving content items transmitted from a remote database server ("A network server 30 located at a central location transmits information to each of the transmission devices 12 either through network 32 which can be a hardwired interface or a secondary wireless transceiver which is a part of the transmission device 12." para. [0026]); a screen ("the display" para. [0006]) in communication with the player controller, the screen displaying the received content items ("advertisements, presentations, solicitations, purchasing suggestions, photos, video clips, audio text files, brochures, maps, coupons, and similar "contextually sensitive" content which is related to the underlying display." para. [0002]); a user device for selecting a content item from a menu of content items displayed on the screen ("personal handheld electronic device such as a PDA [or] a cell phone" para. [0006]); and a computational module that receives information from the user device and selects a content item for display on the

screen in response to the received information ("the user to interact with the display and select the additional data that the user wishes to receive." para. [0005]).

As to dependent **claim 25**, *Avnet et al.* further teach a locker module for storing previously requested content items ("The EBB can record a log of the recipients of its message" para. [0012]).

As to dependent **claim 27**, *Avnet et al.* further teach the information received from the user device includes a start time ("controlled by reference to time" para. [0025]) and a reception channel for the desired content (e.g. channels: "[1] exhibits [2] communicate with one another, either in real time or in archived commentary on the various exhibits [3] obtain maps of the museum [4] go to the museum store..." para. [00]) .

As to dependent **claim 28**, *Avnet et al.* further teach a second screen for the provision of content items selected by a user (e.g. "promotional display" para. [0015]).

As to dependent **claim 29**, *Avnet et al.* further teach the second screen is mounted on a mobile phone device.

As to dependent **claim 30**, *Avnet et al.* further teach the second screen is mounted on the user device ("display...to a personal handheld electronic device such as a...cell phone..." para. [0006]).

As to independent **claim 31**, *Avnet et al.* further teach a method for interactive media display comprising ("the viewer or user interact[s] with the item displayed" para. [0005]): indicating, on a display screen, a plurality of selectable content items ("selected from a menu" para. [0028]); receiving a transmission over a network in response to a command transmitted by a portable communication device, the transmission including a specification of at least one of the content items ("over an electronic communications

network" para. [0008]); and facilitating display of the at least one content item on a display device associated with the portable communication device ("dynamic messaging to the transmission devices 12 which can be device specific..." para. [0026])(emphasis added).

Claim Rejections - 35 U.S.C. § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. **Claims 5-7** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Avnet et al.* (US 2002/0094787 A1) in view of *Wall* (US 20030027591 A1).

As to dependent **claim 5-7**, *Avnet et al.* teaches the apparatus of claim 1, addressed above. *Avnet et al.* do not expressly disclose that the user device generates DTMF tones, SMS messages, or MMS messages to direct operation of the central controller. *Wall* teaches using DTMF tones ("DTMF tones to server 30" para. [0061]), SMS messages ("SMS may be used to send this information." para. [0061]), or MMS ("Multimedia Messaging Service MMS" para. [0023]) for remote controlling. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have used DTMF tones, SMS messages, or MMS for remote controlling as taught by *Wall* with the *Avnet et al.* because *Wall*: (1) is in the same field of endeavor ("methods and systems that allow an operator to distribute messages having aural or visual content that is generated by the operator using handheld apparatuses such as mobile telephones." para. [0001]); (2) is directed to a solution

of the same problem ("a server system that receives one or more signals from a handheld apparatus generated under control of an operator of the handheld apparatus" para. [0008]); and (3) expressly suggests the desirability and motivation for using DTMF/SMS/MMS remote controlling ("The notification method is suitable for delivery to essentially any type of apparatus including conventional telephones, but it is especially suitable for delivery to cellular telephones by way of SMS, for example..." para. [0047]).

8. **Claim 26** is rejected under 35 U.S.C. 103(a) as being unpatentable over *Avnet et al.* (US 2002/0094787 A1) in view of *Walsh et al.* (US 20030050058 A1).

As to dependent **claim 26**, *Avnet et al.* teach the apparatus of claim 24, addressed above. *Avnet et al.* do not expressly disclose the information received from the user device is provided in XML format. However, *Walsh et al.* teach it is know in the art for information received from user devices for dynamic content delivery systems are provided in XML format ("Some content description schemes suitable for the DCDS application include...XML or the like, as are known in the art." para. [0104]). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have used the XML as taught by *Walsh et al.* with the user device taught by *Avnet et al.* because, in the same field of endeavor, *Walsh et al.* is directed to the same particular problem of "...establishing a dynamic content delivery system [in a] mobile communications unit [t]o communicate with a server in order to make a request for the delivery of specific content, such as a song, video, or the like, to a separate output device, such [as] a display screen, or the like." (Abstract) and expressly suggests XML's use is desirable and advantageous because of its ease of readability ("Ideally the descriptions should be machine understandable, not only machine-readable." para. [0104]).

Conclusion

9. Although not relied upon, the following prior art is made of record because it considered pertinent to applicant's disclosure:

[1] *Martinez et al.* (US 2002/0118800 A1) for teaching a telephone switch responsive to control signals to switch a call received from a caller.

[2] *Herrmann* (US 2002/0124271 A1) for teaching an interactive public media display terminal capable of presenting different presentations to the viewing public.

[3] *Clernock et al.* (US 2002/0171670 A1) for teaching a personalized data delivery system for dynamically integrating viewer-specified data with visual content.

[4] *Smith et al.* (US 2003/0006911 A1) for teaching an interactive advertising system and method.

[5] *Tashiro et al.* (US Pat No. 6,975,836 B2) for teaching a data broadcasting system, receiving terminal device, contents providing server.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samir Termanini whose telephone number is (571) 270-1047. The examiner can normally be reached from 9 A.M. to 4 P.M., Monday through Friday (excluding alternating Fridays).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen S. Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information

for unpublished applications is available through Private PAIR only. For more information about the PAIR system, *see* http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Samir Termanini

Samir Termanini
Patent Examiner
Art Unit 2178

STEPHEN HONG
SUPERVISORY PATENT EXAMINER